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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/566,074   | 04/02/2007  | Heinrich Diekmeyer   | 056982/67           | 9430             |
| 31013  | 7590        | 04/02/2009           | EXAMINER            |                  |
| KRAMER LEVIN NAFTALIS & FRANKEL LLP<br>INTELLECTUAL PROPERTY DEPARTMENT<br>1177 AVENUE OF THE AMERICAS<br>NEW YORK, NY 10036 |             |                      |                     | NGUYEN, VU Q     |
| ART UNIT   |             | PAPER NUMBER         |                     |                  |
| 3657   |             |                      |                     |                  |
|  |             |                      | NOTIFICATION DATE   | DELIVERY MODE    |
|  |             |                      | 04/02/2009          | ELECTRONIC       |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

klpatent@kramerlevin.com

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/566,074             | DIEKMEYER, HEINRICH |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | VU Q. NGUYEN           | 3657                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 April 2007.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-9 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 25 January 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/25/2006</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites a first limitation “said at least one secondary consumer device being constructed and arranged to draw pressurized fluid from at least one pressurized-fluid storage reservoir” and a second limitation “said at least one pressurized-fluid storage reservoir being constructed and arranged to supply said at least one pressurized-fluid-consuming device”. It is generally unclear exactly what structure is imparted by the limitations. Regarding the second limitation, exactly what is supplied by the pressurized-fluid storage reservoir? The Examiner assumes a pressurized fluid. Next, does the pressurized-fluid reservoir supply pressurized fluid to the secondary consumer device (as implied by the first limitation)? If so, why does the second limitation only recite the pressurized-fluid-consuming device? If not, how does the secondary consumer device draw pressurized fluid from the pressurized-fluid storage reservoir? What exactly are the operative connections between the pressurized-fluid storage reservoir, the pressurized-fluid-consuming device, and the secondary consumer device? These questions raise issues that render the claims indefinite.

Claim 6 recites the limitation "said signal". There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent No. 6089831 (Bruehmann).

Regarding claim 1, Bruehmann discloses in Fig. 1, a pressurized-fluid-consuming system, comprising at least one pressurized-fluid consuming device (I, II, III) and at least one secondary consumer device (IV, V), said at least one secondary consumer device being constructed and arranged to draw pressurized fluid from at least one pressurized-fluid storage reservoir (37.1-37.5), said at least one pressurized-fluid storage reservoir being constructed and arranged to supply said at least one pressurized-fluid-consuming device (as best understood; see 112 rejection above), said at least one secondary consumer device including means for receiving a determined value of state of said at least one pressurized-fluid storage reservoir (see pressure sensors 54.1-54.3, 54.5 and control electronics 57) and for drawing pressurized fluid from said at least one pressurized-fluid storage reservoir only when said value of state reaches a predetermined minimum value (see column 7, lines 51-64).

Regarding claim 2, the Examiner submits that said value of state indicated by pressure sensors 54.1-54.3, 54.5 is pressure in said at least one pressurized-fluid storage reservoir 37.1-37.5.

Regarding claim 3, the Examiner submits that a lower limit of a predetermined range has been established as set forth above. See column 6, line 54 - column 7, line 20 disclosing an upper limit.

Regarding claim 4, see column 4, lines 40-48 disclosing pressurized-fluid-consuming device I, II, III as a vehicle brake system.

Regarding claim 5, see control electronics 57, data bus 59, column 5, lines 42-54, and column 7, lines 51-59.

Regarding claim 6, see a pressurized-fluid supply device 11, 18, 20; and column 7, lines 51-59 disclosing control electronics 57 sending information to a status indicator disposed in the driving compartment of the vehicle in order to inform the driver what pressure conditions are present, thereby meeting the limitation of “an electronics unit of an instrument panel”.

Regarding claim 7, see column 6, line 54 - column 7, line 36.

Regarding claim 8, see column 4, lines 40-48 disclosing at least one secondary consumer device V as an air shock absorber circuit, which the Examiner submits can be interpreted as a vehicle level-control system, as broadly recited.

Regarding claim 9, see column 4, lines 40-48 disclosing service brake circuits, and thus, a service brake system, as claimed.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent Nos. 5678900, 6540308, 7080891, U.S. Patent Application Publication No. 2004/0195910.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VU Q. NGUYEN whose telephone number is (571) 272-7921. The examiner can normally be reached on Monday through Friday, 11:30 AM to 8:00 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. Q. N./  
Examiner, Art Unit 3657

/Robert A. Siconolfi/  
Supervisory Patent Examiner, Art  
Unit 3657

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